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भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-Section (ii)

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गृह मंत्रालय

अधिसूचना

नई दिल्ली, 30 सितम्बर, 1994

का.आ. 720 (अ) :- केन्द्रीय सरकार ने, विधि विरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना सं. का.आ. 190 (अ), तारीख 18 फरवरी, 1994 द्वारा जम्मू-कश्मीर लिबरेशन फ्रंट (जे के एल एफ), जिसके अन्तर्गत भारत के भीतर और विदेश में सक्रिय उसके सदस्य, कार्यकर्ता, सहायक ग्रुप, हमदर्द और स्वयंसेवक हैं, को एक विधि विरुद्ध संगम घोषित किया था ;

और केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना सं.का.आ. 219 (अ), तारीख 15 मार्च, 1994 द्वारा विधि विरुद्ध क्रियाकलाप (निवारण) अधिनियम का गठन किया था, जिसमें राजस्थान उच्च न्यायालय के न्यायाधीश न्यायमूर्ति श्री अरुण मदान थे ;

और केन्द्रीय सरकार ने, पूर्वोक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना को 15 मार्च, 1994 को यह न्याय निर्णय करने के प्रयोजन के लिए उक्त अधिनियम को निर्विघ्न किया था कि उक्त संगम को विधि विरुद्ध घोषित करने का प्रयोग कारण है या नहीं ;

और उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, अधिसूचना सं. का.आ. 190 (अ) तारीख 18 फरवरी, 1994 में की गई घोषणा को पुष्टि करते हुए 16 अगस्त, 1994 को एक आदेश किया ;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 4 की उपधारा (4) के अनुसरण में, उक्त आदेश को प्रकाशित करती है, अर्थात् :-

आदेश संघर्षों में छपा है।

[का.सं. 13014/4/94-के (सी. ओ. आई.)]

मधुकर गुप्ता, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

New Delhi, the 30th September, 1994

NOTIFICATION

S.O. 720(E).—Whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) declared the Jammu and Kashmir Liberation Front (JKLF) including its members, activists, armed groups, sympathisers and self-styled leaders operating inside India and abroad to be an unlawful association vide notification of the Government of India in the Ministry of Home Affairs No. S. O. 190(E) dated the 18th February, 1994;

And whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, vide notification of the Government of India in the Ministry of Home Affairs No. S. O. 219(E), dated the 15th March, 1994 constituted the Unlawful Activities (Prevention) Tribunal, consisting of Justice Shri Arun Madan, Judge of the Rajasthan High Court;

And whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 4 of the aforesaid Act, referred the said notification to the said Tribunal on the 15th day of March, 1994 for the purpose of adjudicating whether or not there was sufficient cause for declaring the said association as unlawful.

And whereas the said Tribunal, in exercise of the powers conferred by sub-section (3) of section 4 of the said Act made an order on the 16th day of August, 1994 confirming the declaration made in the notification No. S. O. 190(E), dated the 18th February, 1994;

Now, therefore, in pursuance to sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the said Order, namely :—

BEFORE THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

IN RE :

JAMMU AND KASHMIR LIBERATION FRONT (JKLF)

CORAM :

HON'BLE MR. JUSTICE ARUN MADAN
PRESENT :

1. Union of India through Mr. Madan Lokur
Standing Counsel.

2. Mr. Meet Malhotra Advocate.

3. Mr. G. L. Kaul, Chief Prosecuting Officer, State of Jammu and Kashmir.

JKLF—Ex-parte.

Dated : August 16, 1994.

ORDER

In exercise of the powers conferred under sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (hereinafter or the sake of brevity called the 'Act'), the Government of India, Ministry of Home Affairs by Notification No. 13014/19/93-K(DO-1) published in the Gazette of India Extraordinary on 18-2-1994, declared Jammu and Kashmir Liberation Front (hereinafter referred to as 'JKLF') to be an unlawful association. As per the Notification the said association is actually based in Pakistan and London and also functioning on Indian soil specially in Jammu and Kashmir through its sympathisers, supporters and self-styled leaders. In view of the activities of the said association which have been prejudicial to the Nation as a whole and the State of Jammu and Kashmir in particular, the

Government of India was left with no option but to declare the JKLF as an unlawful association under sub-section (1) of Section 3 of the Act by Notification, referred to above, and consequently this Tribunal was constituted by the Central Government with its Headquarters at Jaipur, Rajasthan in exercise of its powers conferred by sub-section (1) of Section 5 of the Act vide Notification dated 18-2-1994. In view of sub-section (5) of Section 5 of the Act which provides, "subject to the provisions of Section 9, the Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it will hold its sittings", this Tribunal while regulating its procedure in matters arising out of discharge of its functions, fixed its place of sitting at the Conference Hall, Rajasthan House, New Delhi. The counsel representing the Union of India, the officers and staff of the Tribunal and the officers and staff of the Central Government and also the officials of the State of Jammu and Kashmir made their appearance before the Tribunal on the respective dates of hearing fixed by the Tribunal at Rajasthan House, New Delhi.

2. The Government of India in pursuance of statutory requirements as envisaged under sub-section (1) of Section 4 of the Act, while declaring JKLF as an unlawful association by the Notification, referred to above, within 30 days from the date of publication of the said Notification, made the reference to this Tribunal alongwith A RESUME on the said association for the purpose of adjudicating as to whether or not there is a sufficient cause for declaring the said organisation as 'unlawful' vide Government of India, Ministry of Home Affairs vide Notification No. DO. I letter No. 13014/4/94, dated 15-3-1994.

3. On receipt of the reference this Tribunal called more the association by notice in writing in compliance with the requirement of sub-section (2) of Section 4 of the Act to show cause as to why the said association should not be declared unlawful.

4. The notice to show cause was directed to be served on the association by adopting the following modes in terms of Tribunal's order, dated 9-5-1994 :

- (a) by publishing verbatim texts of the notice in at least one Urdu (text properly translated in Urdu) and one English daily newspaper having circulation in J&K State and by insertion, if possible, in a daily newspaper having circulation in the locality where the association has its office in J & K and Pakistan;
- (b) by broadcasting contents of the notice in Urdu, English and Kashmiri languages bulletins over All India Radio and Local Radio Station of J & K State i.e. both at National and State level;
- (c) by broadcasting, if possible, contents of the notice as news items in Doordarshan including bulletins of Urdu and Kashmiri languages in Jammu & Kashmir State;

- (d) by affixing notices on the notice boards of the offices of District Magistrates concerned of all the districts of J & K State as far as practicable ;
- (e) if possible, by affixing notice on the office of JKLF where such office is located. If possible, it may also be served on any identifiable prominent office-bearer or member of JKLF ;
- (f) by all such other modes as were adopted in effecting service of the Notification made by the Central Government under sub-section (1) of Section 3 of the Act.

5. Three interim reports were submitted by the Central Government on 8-6-1994, 9-6-1994, 27-6-1994 and final compliance report on 28-6-1994 alongwith the documents mentioned therein. The documents submitted alongwith the above reports clearly indicate that the service of show cause notice which was directed to be served on the JKLF has been done in the following manner :

I. By publication in newspaper :

- (a) The notice has been published in English newspaper 'Daily Excelsior' dated 24-5-1994 published from Jammu.
- (b) The notice has been published in Urdu newspaper 'Daily Aftab' dated 28-5-1994 from Jammu.
- (c) There was a news item in 'Kashmiri Times' newspaper dated 22-5-1994 regarding issuance of show cause notice to JKLF.

II. Through Electronic Media :

- (a) The notice was used as news item in Hindi, English and other 14 regional languages including Kashmiri bulletins of All India Radio on 24-5-1994.
- (b) Such news item was also broadcasted on 'Doordarshan' in both Hindi and English bulletins on 23-5-1994.

III. By displaying the notice on notice-boards :

The notice has been displayed by pasting on the notice-boards of offices of District Magistrates and on other prominent places of various districts of J & K. The certificate of concerned authorities have been produced which show that wide publicity has been given to the notice by displaying the copies at public places and various offices in the twelve districts of J & K.

IV. By personal service on members of JKLF at Luton-UK

The fax message dated 30-5-1994 received from Deputy High Commissioner at UK and letter No. Lon/CON/415/26/94 dated 14-6-1994 from Shri R. Banerji, Minister (Consular) High Commission of India, London and two affidavits of process server Mr. Richard Christopher Baden Geldert

dated 3-6-1994 have been submitted to show that the service of notice has been personally effected on Mr. Malik & Mr. S. Choudhary, members of JKLF at Luton UK on 27-5-1994. The above documents also reveal that copies of the notice were affixed to the door of the premises mentioned in the fax message dated 30-5-1994.

6. On perusal of the compliance reports, referred to above, and the record submitted in support thereof, this Tribunal was satisfied that the requirement with regard to service of show cause notice on the affected association as envisaged under sub-section (2) of Section 4 of the Act read with Rule 6 of Unlawful Activities (Prevention) Rules, 1968, has been substantially complied with.

7. Despite service of show cause notice on the affected association no one entered appearance and no written statement of defence was filed on behalf of JKLF. Neither any representative of the association appeared before the Tribunal throughout the proceedings nor the association was represented by any counsel, hence the Tribunal was left with no option except to proceed ex-parte against the association, the Tribunal passed an order dated 30-6-1994 directing to proceed ex-parte against the association.

8. Notwithstanding the fact that show cause notice dated 9-5-1994 was served on the association by adopt all modes in accordance with Section 4(2) of the Act, as referred to above, the JKLF having not responded to the said show cause notice either by putting its appearance through its authorised representative or through its counsel before the Tribunal, the Tribunal could have taken cognizance and dealt with the documents filed on behalf of the Central Government as well as on behalf of the State Government of Jammu & Kashmir summarily, yet as a matter of abundant caution all possible modalities were adopted in the matter of inquiry pertaining to the activities of JKLF, under reference.

9. During the course of inquiry in justification of the Notification, referred to above, following affidavits have been filed by way of evidence alongwith supporting documents on behalf of Central Government :

- (a) Affidavits of Shri Madhukar Gupta, Joint Secretary, Ministry of Home Affairs, Government of India, dated 9-6-94 alongwith documents which have been placed in Volume-II.
- (b) Affidavit of Shri S. Sounder Rajan, Desk Officer, Ministry of Home Affairs, Government of India, which have been placed in Volume-III.
- (c) Affidavit of Shri G. L. Kaul, Chief Prosecuting Officer, CID, Jammu, dated 28-7-1994 alongwith the documents mentioned therein which have been placed in Volume-V.

Apart from above a list alongwith documents mentioned therein was filed on 7-6-1994 containing the following documents which have been placed in Volume-I.

- (i) Copy of Tashkent Declaration of 1965,
- (ii) Simla Agreement of 1975,
- (iii) A dossier on JKLF and Constitution of JKLF in Urdu alongwith its English translation,
- (iv) List of documents alongwith photostat copies of 90 documents in Urdu was also filed by Central Government on 28-6-1994 which have been placed in Volume-IV.

10. During the course of proceedings the Central and the State Governments were given opportunity to produce any witness other than the officers whose affidavits have already been filed, but the standing counsel for Central Government contended that he does not intend to adduce any such oral evidence and is relying upon the documentary evidence already filed on record.

11. On perusal of the documents filed on the record, it was revealed that many documents were in Urdu and not legible, therefore, the Central Government was directed to file true English translation of the Urdu documents and legible copies of the illegible documents. Subsequently in compliance with the Tribunal's direction, English translation in extract form of Urdu documents were filed alongwith the photostat copies of which English translation was not furnished were not relied upon by the counsel for Central Government which have been shown in a separate list placed in Volume-IV. For the purpose of testing the veracity, existence and genuineness of the photostat copies of the documents already filed, original record was summoned for the purpose of comparison and after a random comparison of the said documents with their respective originals, the Tribunal was satisfied regarding the existence and genuineness of the said documents. The original documents were returned to the concerned officials by the Tribunal. For the purpose of adjudicating the subject matter of reference the following issues were framed :—

- (1) Whether on the facts and in the circumstances stated in the notification dated 18th of February, 1994 and the resume accompanying the reference, there is sufficient cause for declaring the JKLF unlawful under Section 3 of Unlawful Activities (Prevention) Act ?
- (2) What orders should be made, either confirming the declaration made in the notification or cancelling the same, under sub-section (2) of Section 4 of the Act ?

12. Before discussing the evidence tendered on record by the Central Government, it will be appropriate to deal with the procedure to be adopted by the Tribunal. In holding inquiry, Rule 3 requires that the Tribunal shall follow as far as practicable the

rules of evidence laid down in the Evidence Act. Section 9 postulates that the Tribunal shall follow as far as may be, the procedure laid down in the Code of Civil Procedure "for investigation of claims". Therefore, summary procedure envisaged under Order XXI Rule 58(i) for investigation of claims under the CPC is to be followed.

13. The nature of function of the Tribunal envisaged under Section 4 of the Act that the Tribunal is not concerned with the material that may or may not have been taken into consideration by the Government. The Tribunal has to autonomously adjudicate whether or not there is sufficient cause for declaring the association unlawful.

14. Sufficient case is different from sufficient material. Sufficient cause has undoubtedly to be tested on the basis of satisfactory evidence to prove relevant facts on record. But it does not mean any cause which the Government may deem sufficient to justify the declaration. Here, the Tribunal has to test sufficient cause and that should mean existence of legal cause of substantial nature directly connected with public interest in the achievement and fulfilment of the object of the Act.

15. In view of this the legislature has provided for adjudication of the matter by a High Court Judge and the Tribunal is vested with absolute powers under Section 4 to make such order as it may deem fit either confirming the declaration or cancelling the same. The decision of the Tribunal by virtue of Section 9, shall be final and the order of the Tribunal made under sub-section (3) shall be published in the official gazette. The various provision of the Act and Rules envisage thorough probe by the Tribunal and to judge the cause from the point of view of public interest and to guard against unnecessary transgression of fundamental rights of members of affected association.

16. Therefore, for fair determination of the matter, even when the affected association chooses not to co-operate, thorough inquiry must be held.

17. Reception of evidence on affidavits is expressly envisaged under Section 5 of the Act which is consistent with the summary nature of the proceedings. Keeping in view the peculiar nature of the activities sought to be prevented, in respect of which direct evidence is difficult to get and unrealistic to expect, the strict rules of evidence have to be relaxed to fit into the scheme of the provision made under the Act. Hence the Tribunal may act upon relevant and cogent material which tends logically to show whether or not there is sufficient cause for declaring the association unlawful rather than looking for conclusive proof for establishing the grounds mentioned in the Notification.

18. From the affidavits and documents filed on record by the Central as well as the State Governments it is apparent that the Notification dated 18-2-1994 was issued on the basis of information and material gathered by it from time to time from its own intelligence agencies, press reports compiled by it and

from the State Government who had, in turn, collected information from its intelligence and police departments on investigation of reported cases. Some of the documents as obtained by the Central Government from State Government are collected and compiled on record thereof which is maintained in the regular course of activities of the State Government. Since originals of the Zerox copies of the documents were produced for perusal of the Tribunal for the purpose of comparison, it can safely be assumed that the documents filed on the record are true and correct copies and, therefore, the zerox copies were allowed to be read in evidence.

19. Certain documents have been produced purporting to be statements of different persons recorded under Section 161 Cr. P. C. and under Section 15 of the Terrorists and Disruptive (Prevention) Act, 1957 (TADA). Since these statements and confessions were made before officers authorised by law to take such evidence, presumption may be drawn under Section 80 of the Evidence Act that these documents are genuine and that the statements and confessions were duly taken. The persons who have made confessional statements, acknowledge their share and participation in commission of the alleged offences. They have also revealed the facts and circumstances of other criminal activities in which they were involved. They have named several other members and activists of JKLF and described the share and participation of each of them in the activities disclosed in their statements. The contents and tenor of their statements, especially the particulars and details given therein suggest that the statements were made voluntarily. The learned counsel for General Government affirmed that none of the confessional statements had been retracted. Thus assured of the voluntary nature of the confessional statements, they were permitted to be read in evidence.

20. Newspaper reports, by themselves, on strict application of the rules of evidence, may not be taken as proof of their contents, yet, it cannot be denied that newspapers do carry contemporaneous reports of day-to-day activities of general public interest, and that reporters and editors usually verify correctness of facts before publishing them. Such reports, specially where more than one newspaper reports about the same incident or where occurrence of an event is established and corroborated by other evidence like FIRs and other official records of the police department, may, well be relied upon and taken into consideration.

21. For proper appreciation of the evidence adduced on the record, the aims and objects of the association and nature and function of its activities, it shall be appropriate to discuss the constitutional safeguards provided to the citizens of the country and the reasonable restrictions which was imposed by the State for exercise of Fundamental Rights guaranteed under the Constitution.

22. The Constitution of India guarantees to all its citizens a right to form associations or unions under Article 19(1) (c). The exercise of the said right is subject to imposition of reasonable restriction for the

exercise of the said right in the interest of the sovereignty and integrity of India or public order or morality etc. Sub-clause (iv) of Article 19 of the Constitution of India provides as under :

"Nothing in sub-clause (d) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevents the state from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause."

23. The right to form associations or unions includes associations for any lawful purposes only. It has been held by the Apex Court in the matter of All India Bank Employees Association Vs. N. I. Tribunal, AIR 1962 S.C. 171 (179) that the right to form an association guaranteed by sub-clause (c) of Article 19 does not carry with it a further guarantee that the objects or purposes of an association so formed shall not be interfered with law except on grounds specified in clause (iv), viz., public order and morality. Hence, the conditions imposed by the Government for obtaining recognition cannot be challenged as unreasonable restrictions imposed upon the freedom of association.

24. It follows as a natural corollary that the exercise of the said fundamental right to form an association or union does not include within its purview a right to form an unlawful association or union, the activities of which, would be prejudicial not only to the Security of the State but also to the security of the Nation on the whole. The Government of India is thus within its competence to impose any reasonable restriction as a condition precedent for the exercise of the said right.

25. It is in this context that the Unlawful Activities (Prevention) Act, 1967 and Unlawful Activities (Prevention) Rules, 1968 were enacted by the Parliament with a view to provide for more effective prevention of certain unlawful activities of individuals and associations and for matters connected therewith. The said Act extends to whole of the India including the State of Jammu and Kashmir.

26. It will be pertinent to refer to the Scheme of the Act and the Rules framed thereunder. Relevant provisions of the Act and the Rules are reproduced below :

"Sec. 2—Definitions.—In this Act, unless the context otherwise requires,—

- (a) "association" means any combination or body of individuals;
- (b) "cession of a part of the territory of India" includes admission of the claim of any foreign country to any such part;
- (c) "prescribed" means prescribed by rules made under this Act;

(d) "secession of a part of the territory of India from the Union" includes the assertion of any claim to determine whether such part will remain a part of the territory of India;

(e) * * * * *

(f) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation of otherwise) , —

(i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory in India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession;

(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India.

(g) "unlawful association" means any association—

(i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or

(ii) which has for its object any activity which is punishable under Section 153-A or Section 153-B of the Indian Penal Code, (45 of 1860) or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity :

Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir.

2-A. * * * * *

3. Declaration of an Association as unlawful.—(1) If the Central Government is of opinion that any association is, or has become, an unlawful association, it may, by notification in the Official Gazette, declare such association to be unlawful.

(2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary :

Provided that nothing in this subsection shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose.

(3) No such notification shall have effect until the Tribunal has, by an order made under Section 4, confirmed the declaration made therein and the order is published in the Official Gazette :

(3) After considering the cause, if any, shown by the association or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the manner specified in S. 9 and after calling for such further information as it may consider necessary from the Central Government or from any office-bearer or member of the association, it shall decide whether or not there is sufficient cause for declaring the association to be unlawful and make, as expeditiously as possible and in any case within a period of six months from the date of the issue of the notification under sub-s. (1) of S. 3, such order as it may deem fit either confirming the declaration made in the notification or cancelling the same.

(4) The order of the Tribunal made under sub-s. (3) shall be published in the Official Gazette.

(5) Tribunal—(1) The Central Government may, by notification in the Official Gazette, constitute, as and when necessary, a tribunal to be known as the "Unlawful Activities (Prevention) Tribunal" consisting of one person, to be appointed by the Central Government :

Provided that no person shall be so appointed unless he is a Judge of a High Court.

(2) * * * * *

(3) * * * * *

(4) * * * * *

(5) * * * * *

(6) The Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters namely :—

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the requisitioning of any public record from any court or office;

- (e) the issuing of any commission for the examination of witnesses.

Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any order that may be made under Section 4, have effect from the date of its publication in the Official Gazette.

- (4) Every such notification shall, in addition to its publication in the Official Gazette, be published in not less than one daily newspaper having circulation in the State in which the principal office, if any, of the association affected is situated, and shall also be served on such association in such manner as the Central Government may think fit and all or any of the following modes may be followed in effecting such service, namely :—

- (a) by affixing a copy of the notification to some conspicuous part of the office, if any, of the association; or
- (b) by serving a copy of the notification, where possible, on the principal office-bearers, if any, of the association; or
- (c) by proclaiming by beat of drum or by means of loud-speakers, the contents of the notification in the area in which the activities of the association are ordinarily carried on; or
- (d) in such other manner as may be prescribed.

4. Reference to Tribunal.—(1) Where any association has been declared unlawful by a notification issued under sub-s. (1) S. 3, the Central Government shall, within thirty days from the date of the publication of the notification under the said subsection, refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful.

- (2) On receipt of a reference under sub-s. (1), the Tribunal shall call upon the association affected by notice in writing to show cause, within thirty days from the date of the service of such notice, why the association should not be declared unlawful.

- (7) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of Section 195 and Chapter-XXXV of the Code of Criminal Procedure, 1898.

6. Period of operation and cancellation of notification.—(1) Subject to the provisions of sub-S. (2), a notification issued under S. 3 shall, if the declaration made therein is confirmed by the Tribunal by an order made under S. 4, remain in force for a period of two years from the date on which the notification becomes effective.

- (2) Notwithstanding anything contained in sub-S. (1) the Central Government may, either on its own motion or on the application of any person aggrieved, at any time, cancel the notification issued under S. 3, whether or not the declaration made therein has been confirmed by the Tribunal."

27. Section 9 of the Act read with Rules 3 and 5 of Unlawful Activities (Prevention) Rules, 1968 postulate the procedure which may be adopted by the Tribunal for the purpose of holding inquiry with regard to the concerned association. Rule 3 reads as under :—

- "3. Tribunal and District Judge to follow rules of evidence.—(1) In holding an inquiry under sub-s. (3) of S. 4 or disposing of any application under sub-s. (4) of S. 7 or sub-s. (8) of S. 8, the Tribunal or the District Judge, as the case may be shall subject to the provisions of sub-rule (2), follow as far as practicable, the rules of evidence laid down in the Indian Evidence Act, 1872 (1 of 1872).

- (2) Notwithstanding anything contained in the Indian Evidence Act, 1872, where any books of account or other documents are claimed by the Central Government to be of a confidential nature, the Tribunal or the Court of the District Judge shall not,—

- (a) compel that Government to produce before it such books of account or other documents, or
- (b) where any such books of account or other documents have been produced before it by that Government,—
 - (i) make such books of account or other documents a part of the records of the proceedings before it, or
 - (ii) give inspection of, or copy of the whole of, or any extract from any such books of account or other documents to any party before it or to any other person.

5. Documents which should accompany a reference to the Tribunal.—Every reference made to the Tribunal under sub-s. (1) of S. 4 shall be accompanied by—

- (i) a copy of the notification made under sub-S. (1), of S. 3, and

- (ii) all the facts on which the grounds specified in the said notification are based :

Provided that nothing in this rule shall require the Central Government to disclose any fact to the Tribunal which that Government considers against the public interest to disclose."

28. Taking note of the unlawful activities indulged by the JKLF in the past, the State Government of Jammu & Kashmir had issued a Notification on 16-4-1990 vide SRO No. 151 dated 16-4-1990 for declaring the said association as unlawful association under the provisions of J & K Criminal Law (Amendment) Act of 1983. The said Notification was earlier referred to the Tribunal constituted by the State of J & K under Section 5 of the State Act, but since the proceedings could not be completed within the statutory period of six months from the date of receipt of reference the time was extended by the State Government for another period of 1-1/2 years but the proceedings again could not be completed within the aforesaid period by the State Tribunal and as a result, the proceedings before the State Tribunal stood abated.

29. Consequently on abatement of the reference in the Tribunal constituted under the State Act, the State Government of Jammu & Kashmir made a reference to the Ministry of Home Affairs, Government of India with a request to constitute another Tribunal by making available the entire record concerning the association JKLF to the Ministry of Home Affairs, Government of India for the purpose of ascertaining as to whether there was sufficient cause for declaring JKLF to be an unlawful association. In the above circumstances the Central Government issued a Notification No. SO 140(E), dated 18-2-1992 by constituting a Tribunal comprising of Justice A. B. Sahariva of Delhi High Court and the said Tribunal entered upon a reference and after taking note of the activities of the aforesaid association on the basis of evidence produced on the record, was satisfied that there was sufficient cause for declaring JKLF to be an unlawful association. Consequently the declaration made by the Government of India, Ministry of Home Affairs in its Notification, dated 18-2-1992 under Section 3(1) of the Act was confirmed by the said Tribunal on 12-8-1992.

30. Since the period during which the aforesaid Notification which was confirmed by the erstwhile Tribunal was limited to a period of two years as envisaged under the Act, the Government of India took note of subsequent activities indulged by JKLF within and outside the State of Jammu & Kashmir. Considering the activities of the said association being prejudicial to the security of the State and the Nation as a whole, the Government of India, Ministry of Home Affairs was constrained to issue the Notification dated 18-2-1994 which has been placed for consideration before this Tribunal.

31. In terms of the aforesaid reference which is accompanied by a resume on the association JKLF the said association was declared unlawful by the Central Government by a Notification issued on 18-2-1992 under Section 3 of the Act. The Central

Government also took note of this fact that the association was continuously indulging in its unlawful activities and propagating its aim and objective of secession of Jammu and Kashmir from Union of India through an armed struggle and forming an independent State of Jammu & Kashmir. For the sake of reference it will be pertinent to refer to the following clauses of the aforesaid resume :

Aims and Objectives.—The main aim of the Jammu and Kashmir Liberation Front was the achievement of right of self-determination for the people of Kashmir. According to them the people of the State alone have the right to determine their future and according to their ideology the people of the State of Jammu and Kashmir are not bound by or will not abide by any treaty/accord or agreement which might have been arrived at without the wishes of the people of the State.

Recent Activities of Jammu & Kashmir Liberation Front :

The Jammu and Kashmir Liberation Front has close links with Pakistan's Inter-services Intelligence which has been organising training of Kashmiri Youths in Pakistan Occupied Kashmir territory. Many of its important leaders including its Chairman Amanullah Khan continued to be in Pakistan or Pakistan Occupied Kashmir seeking guidance and also receiving funds and arms etc. from their abettors across the border. The leaders in exile are also having contracts with their agents and supporters inside the State promoting them to indulge in anti-national and terrorists activities. Some of its workers from within the State have also been visiting Pakistan and Pak Occupied Kashmir clandestinely for guidance, assistance and directions. The acting President of JKLF in the State, Jawed Ahmed Mir alias Nalqa made a clandestine visit to Pakistan and Pakistan occupied Kashmir in June, 1993 for mobilising support for armed insurgency.

On return from across the border, Jawed Mir alias Nalqa the acting President of JKLF openly made a statement reiterating the resolve of JKLF to launch a decisive war of independence against the Government of India.

The JKLF has been misusing religious places for the purpose of instigating the people of the State to wage war against Government. These religious places are used as sanctuaries and hide-outs and storage of weapons. In November, 1993 out of the 27 militants who continued to siege the Hazratbal Shrine in Srinagar, 13 belonged to JKLF. The notable among them was its Intelligence Chief namely Mohd. Yousaf Sofi (Code name IDRIS) S/o Sh. Ghulam Ahmed Sofi of Malabagh, Srinagar. These militants were armed with sophisticated weapons including rocket-launchers, AK series rifles, sniper rifles and pistols. Mohd. Yousaf Sofi had in a BBC televised narration with IGP Kashmir declined to move out of Hazratbal Shrine and threatened to blow the shrine in case security forces mounted any pressure.

Attack on Security Forces :

Since March, 1992 the JKLF has continued to be involved in a series of attacks on security forces. In this context the various incidents of the period April, 1992 to March, 1993 narrated in the resume with the caption 'Actions by JKLF' are as under :

Actions by JKLF

| | | |
|----------------|-------------------------|--|
| April, 1992 | Khanyar | Attacked a SF picket at the main crossing and another BSF picket near Shiraz Cinema and one BSF Jawan was injured. |
| April, 1992 | Downtown, Srinagar | Attacked an SF party near idgah. No casualties. |
| June, 1992 | Fruitmandi Srinagar | Attacked a BSF vehicle and damaged it. |
| 25-8-1992 | Safakadal Srinagar | Attacked a BSF bunker. No damages were caused. |
| 2-9-1992 | Karannagar, Srinagar | Attacked a SF bunker near Chacha bridge. No damages. |
| 12-9-1992 | Batmaloo, Srinagar | Attacked a SF party. One militant was injured in return fire. |
| October, 1992 | Baramulla Town | Attacked a SF patrolling party injuring 5 jawans. |
| October, 1992 | Noorbagh, Srinagar | Attacked an army convoy near mosque. One vehicle damaged. |
| October, 1992 | Kanilbagh Baramulla | Ambused an army convoy. One JKLF militant was killed. |
| November, 1992 | Baramulla | Ambused an army party. No casualties caused. |
| December, 1992 | -do- | -do- |
| December, 1992 | Baramulla | JKLF militants ambused an army convoy damaging one vehicle. |
| March, 1993 | Bemina by pass Srinagar | JKLF militants attacked an army vehicle. Minor damages were caused to it. |

Kidnappings and other activities by JKLF

1. The JKLF militants have unleashed a reign of terror in the State of Jammu and Kashmir by indulging in violent activities including abduction and extortion of citizens including attack and destruction of their property etc.

2. The JKLF militants kidnapped five persons including three employees of M.E.S. on August 3, 1992 and two of these M.E.S. employees were also murdered and their dead bodies thrown on September 17, 1992 in Batmaloo area.

3. The JKLF abducted a Subedar Jawahar Lal Matoo of India Army.

4. The JKLF activists also sent a number of threatening letters to the residents of border town of Rajouri in December, 1993 asking for funds for the movement failing which they would meet the fate of various innocent people slain by the front.

5. The JKLF has been preaching secession of Jammu and Kashmir from the Union of India and in this connection it gave calls through the press to the people of the State to observe Independence Day (15th August) as black day. The Independence

Day as well as Republic Day (26th January) figure as Black Days in the official calendar issued by JKLF.

6. The JKLF has been noticed sabotaging the revival of political activities by giving open threats to the public and political parties.

32. It will be pertinent to refer to the Notification dated 18-2-1994 of the Ministry of Home Affairs; Government of India, in pursuance of which this Tribunal was constituted.

"MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 18th February, 1994

S.O. 190(E).—Whereas the Jammu and Kashmir Liberation Front (hereinafter referred to as JKLF) is an association actually based in Pakistan and London and also functioning on Indian soil especially in Jammu and Kashmir, through sympathisers, supporters, agents and self-styled leaders, and

(i) it has openly declared as its aim the secession of Jammu and Kashmir from the

Union of India through an armed struggle, and to achieve this purpose—

- (a) The JKLF has built up and is maintaining close links with the Pakistan's Inter Services Intelligence which has been organising training of Kashmir Youth in Pakistan/Pakistan Occupied Kashmir territory. Many of the JKLF leaders including its Chairman, Amanullah Khan, continue to be in Pakistan/Pakistan Occupied Kashmir, seeking guidance and receiving training in Guerilla Warfare, funds, arms etc. from the Intelligence Agencies of Pakistan and organisation arms training for the youth of Jammu and Kashmir.
- (b) the JKLF has also been masterminding armed terrorism by providing directions and guidance to their local activists in the State of Jammu and Kashmir ;
- (ii) (a) the JKLF has been misusing religious places for the purpose of instigating the people of the State to wage war against the Government of India and the State Government and using these religious places as sanctuaries and hide-outs, and for the storage of the weapons.
- (b) the JKLF militants, including one of its top-ranking self-styled leaders, had taken shelter with arms and held innocent citizens hostage in the Hazratbal Shrine, Srinagar in October, 1993, and before their surrender to the Police on the 16th day of November, 1993, they had threatened to blow the Shrine in case the security forces mounted any pressure ;
- (iii) the JKLF has been making open pronouncements prejudicial to the interest of the Nation and having serious repercussions for the integrity and security of India. Some important instances are enumerated below :—
- (a) the JKLF organised a congregation at Idgah Budgam, on 16th January, 1993 in which Javed Ahmed Mir, the self-styled Acting President of the Front, reiterated the stand of the Front of establishing an independent Kashmir ;
- (b) the JKLF has been preaching secession from the Union of India and in this connection it gave calls through the press to the people of the State to observe Independence Day (15th August 92) as black day. The Independence Day as well as Republic Day figure as black days in the official calendar issued by JKLF ;
- (iv) the JKLF militants have unleashed a reign of terror in the State of Jammu and Kashmir by indulging in violent activities resulting in the death of a large number of civilians and security force personnel, abduction and extortion of citizens, and destruction of property. By these acts, JKLF has tried to

create chaos and insecurity among the people of the State, and to erode the authority of and destabilise, the Government established by law ;

- (v) the JKLF has also attempted to sabotage the revival of political activity by giving open threats to members of the general public, Political parties, and their leaders ;

And whereas the Central Government is of the opinion that for the aforesaid reasons the JKLF including its members, activists, armed groups sympathisers and self-styled leaders operating inside India and abroad is an unlawful association ;

And whereas the Central Government is further of the opinion that because of its continued activities aimed at secession and the repeated acts of violence and attacks by its armed groups on the security forces and on the civilian population, it is necessary to declare the association referred to in the preceding paragraph to be unlawful with immediate effect.

Now, therefore, in exercise of the powers conferred by sub-section (1) of S.3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) the Central Government hereby declares the Jammu and Kashmir Liberation Front (JKLF) including its members, activists, armed groups, sympathisers and self-styled leaders operating inside India and abroad to be an unlawful association ;

And further in exercise of the powers conferred by the proviso to sub-section (3) of the said Act, the Central Government directs that this notification shall, subject to any order that may be made under Section 4 of the said Act, have effect from the date of its publication in the Official Gazette.

[F. No. 13014/19/93-K (DO-I)]
MADHUKAR GUPTA, Jt. Secy.

33. The aforesaid Notification was also accompanied by the resume on JKLF which has already been referred to above.

34. After taking note of the events referred to in the aforesaid resume and Notification pertaining to the alleged activities of JKLF during the period April, 1992 to March, 1993 and the documentary evidence produced in support of the above activities, the Tribunal is to adjudicate on the issues mentioned in para 11 of this order. The Tribunal agrees with the contentions of the learned counsel for the Central Government that this Tribunal is not to go into the question of sufficiency of material which has been tendered on the record and what actually has to be ascertained is that whether on the basis of the record whether or not there is sufficient cause for declaring the association unlawful. Sufficient cause implies that there should be existence of legal cause of substantial nature directly connected with the public interest in the achievement and fulfilment of the objects envisaged under the Act. Therefore, for adjudication on the issues, the Tribunal is not looking for conclusive proof of the grounds mentioned in the Notification, because of the peculiar nature of the activities of the association more particularly that

the witnesses from public would not be forthcoming directly to depose against the association before this Tribunal for the fear of their risk of lives. Under the above circumstances the only possible course left open to the Tribunal is to receive evidence on the basis of affidavits furnished alongwith the record mentioned therein.

35. To appreciate the evidence adduced in support of the grounds it is necessary to look into the historical background of the State of Jammu and Kashmir in the context of inception of JKLF. In this context the Central Government placed reliance on the following documents :

1. Instrument of Accession dated 26th October, 1947.
2. U.N. Resolution dated 13th August, 1948.
3. U.N. Resolution dated 5th January, 1949.
4. Tashkent Declaration dated 10th January, 1966.
5. Simla Agreement dated 2nd August, 1972.

36. From a perusal of the above record it is revealed that historically the territory of Jammu and Kashmir is integral part of India. On the lapse of British Paramountcy, as per 15th August, 1947, the territory of State of Jammu & Kashmir ruled by the then Maharaja Hari Singh became a sovereign State by virtue of Indian Independence Act, 1947. In October, 1947 Pakistani soldiers infiltrated into the State with the aim of capturing Srinagar. Eventually the ruler of the State acceded to the dominion of India by an instrument of accession dated 26th October, 1947. After this Indian troops swung into action against the aggressors. On 13-8-1948 U.N. Commission for India and Pakistan passed a resolution dated 13-8-1948 and consequently ceasefire was declared by both the Governments and they accepted certain principles as a basis for formulation of TRUCE agreement. Another resolution was passed on January 5, 1949 noted acceptance of the Government of India and Pakistan inter alia with the question of accession of the State of Jammu and Kashmir to India and Pakistan will be decided through plebiscite but Pakistan did not withdraw its forces from the occupied territory as per resolution.

37. The Constitution of India was adopted on 26th November, 1949. Article 1 declares that India shall be a union of States and that the State and territories thereof shall be as specified in the First Schedule. On the basis of government of accession, Entry 15 of the First Schedule defines the territory of Jammu & Kashmir as :

"The territory which immediately before commencement of this Constitution was comprised in the Indian State of Jammu & Kashmir."

38. Then on May 1, 1951, the head of Jammu & Kashmir State issued a proclamation for electing a Constituent Assembly for framing a constitution for the State of Jammu & Kashmir and following the election, the Constituent Assembly was convened on 5th of November, 1951. The people of the State of

Jammu & Kashmir, after a detailed discussion, adopted and enacted the Constitution of Jammu & Kashmir in the Constituent Assembly on 17th of November, 1956. The preamble states that the people of the State of Jammu & Kashmir had resolved in pursuance of the accession of the State of India, to further define the existing relationship of the State with the Union of India as an integral part thereof. Article 3 and 4 of the State Constitution which came into force at once, declare : "The State of Jammu & Kashmir is and shall be an integral part of Union of India" and "The territory of the State shall comprise all the territories which on the 15th day of August, 1947, were under the sovereignty or suzerainty of the Ruler of the State".

39. In order to assess the sufficiency of the cause for the purpose of declaring the association as unlawful, this Tribunal has to examine the evidence adduced on record by the Central and State Government, more particularly with reference to each of the grounds mentioned in the Notification. As per the Notification, the first ground states that JKLF has openly declared as its aim, the secession of Jammu & Kashmir from the Union of India through an armed struggle. It will be pertinent to discuss the brief history and the Constitution of JKLF, more particularly the ideology of the association. The JKLF came into formation in the year 1988 with the strength of 2000 Pak/local trained militants having its Headquarters at Srinagar with its areas of operation in Kashmir valley and muslim dominated area of Jammu region. The details of its leadership referred to in the dossier as supreme revolutionary command of JKLF comprises of Amanullah Khan as its Chairman, Mohd. Yaseen Maliq as a President and many other office bearers comprising of its five political militancy wings both in India and abroad. The full unit of JKLF which was established in February, 1988 with the first group of its recruits going across the border received arms training in Pakistan and took oath of allegiance to JKLF.

40. Article 4 of the Constitution of the association stipulates that Kashmir issue is not merely a territorial contention between Bharat and Pakistan but it relates to the National freedom of the people of Jammu & Kashmir exceeding more than one crore. Sub-clause (iv) of Article 4 of the said Constitution provides that the Kashmiris alone have the right to decide about its future constitution, political, economic and social system and the nature of relations with the other countries and no other outside solution can be imposed upon them against their wishes. It further stipulates that the best solution of the Kashmir issue is to re-unite the entire State of Jammu & Kashmir, be made a free, independent and sovereign country. Article 5 of the said Constitution provides that final destination and goal of JKLF is to accomplish the final freedom.

41. The Constitution of JKLF also deals with the aims and objectives of the association. Salient features of the aims and objectives are to endeavour for liberating the entire State of Jammu & Kashmir from foreign domination, making it an independent and sovereign State, securing for it a respectful

place in UNO and internally to set up a system based on democracy people's welfare and social justice. Further aim is to fight on all fronts for liberation struggle which UNO recommends and to struggle further for obtaining the international public opinion for full independence of the country.

42. In furtherance of its nefarious design and its aims and objectives, on 11-2-1993 a demonstration was organised by JKLF on the occasion of 11th Death Anniversary of Maqbool Bhatt, the founder of JKLF. In its charter of demands submitted by Z. A. Mustafa, General Secretary of JKLF (Germany) to the Indian Embassy and other authorities, the association had demanded the right of self-determination for Kashmiris and Anti-Indian slogans were raised by the demonstrators who took a pledge to fight for liberation of Kashmir. The aforesaid charter of demands was also accompanied by a plan of Kashmir with a caption, "Free Kashmir, our objective National Independence". The site plan of Kashmir depicts Kashmir as "Betrayed Kashmir". The Central Government also placed reliance upon the views of Amanullah Khan, Chairman of JKLF regarding future political set-up of Kashmir and in this regard placed a document containing the said views of Amanullah Khan. In the said document, Amanullah Khan is quoted having said in an interview with Lahore based journalist that JKLF favours "Autonomous Entity" for the State of Jammu & Kashmir whose leadership and the people would always be Pakistan's well-wishers. He is quoted having said that if Kashmir was to become free, its relations with Pakistan would be something like that of between two brothers and he further mentioned that he was personally in favour of making Kashmir free and autonomous and a "Neutral Country".

43. In support of the evidence tendered on the record, press clippings of Kashmir Times, dated 9-1-1993 and 17-1-1993 contains the statement of Javed Ahmed Mir, Acting President of JKLF and statements of its leaders having addressed congregation at Idgah in Kashmir raising slogans for Independent Kashmir were placed on record. In press cutting of Kashmir Times dated 29-6-1993, similar demands were reiterated by detained leaders of JKLF having appealed to the militants' organisations to take their movements to its logical conclusion. In a letter dated 22nd October, 1992 by Sheikh Abdulla Hamid, Acting President of JKLF to Mr. Ghali, Secretary General of UNO, the writer is quoted having said, "We want to demonstrate to the world that we do not recognise any line whether it is cease-fire line or line of actual control" "The peaceful struggle carried on by the Kashmiris did not bear fruit".

44. Reliance was also placed by the Central Government on a copy of the agreement dated 2-4-93 between Hizbul Mujahiddin and JKLF, wherein as per clause II of the said agreement both associations agreed on the point of view that the right of self-determination of Kashmiri people can neither be limited nor conditioned and that Kashmiri people have full right to determine the future of the State according to their free will. In the documents filed

by the State Government which were produced alongwith the affidavit dated 9-6-1994 of Sanjiv Madhukar Gupta, Joint Secretary (Home), Central Government, New Delhi in support of ground no. 1, reliance was placed on a copy of press-cutting dated 3-2-1994 which bears the caption, "JKLF announces operation Maqbook and Unified command, the only way to success". Reliance was also placed on press-cutting from Kashmir Times, dated 17-1-1993 wherein JKLF reiterated its demand for Independent Kashmir. JKLF Chief is quoted by the press as having supported the theory of independent Nation for Jammu & Kashmir and that all the three parties to the Kashmir problem should be actively involved in the dialogue, Kashmir people being the main component of the negotiations. Reliance was further placed on a letter dated 10-3-1994 written by Nissar Shah Bukhari of JKLF military advisor of the said association to one Tareef Shah wherein the author of the letter is quoted having said, "I will simply request you that you must exclusively concentrate on the freedom movement at this stage since you are Mujahid". A translated version of leaflet captioned "Waqat Ki Pukar" (Need of the hour) issued by JKLF (Dvn. Jammu) wherein the demand for independent Kashmir was reiterated with a goal of freedom described as 'Freedom Struggle'. It is further stated in the leaflet, "Following the foot steps of Maqbool Bhatt", JKLF started an armed struggle on 31-7-88 against India.

45. On the basis of the above evidence placed on the record by the Central and State Government an inference can clearly be drawn by this Tribunal that right from the very inception of the organisation which came into prominence in the year 1988, the very aim and objectives of the association has been to propogate liberation of the Kashmir from Union of India with ultimate goal of formation of Jammu & Kashmir as an independent State.

46. The very nature and scope of activity of JKLF discussed in the context of the first ground is clearly suggestive of violation of territorial integrity and sovereignty of Union of India and to achieve this aim the association is advocating the secession of Jammu & Kashmir from Union of India through an armed struggle. In this context reliance was placed on the letter dated 29-10-1992 written by Sheikh Abdul Hamid, Acting President of JKLF addressed to Mr. Ghali, General Secretary, UNO, wherein the author of the letter has openly stated that the Kashmiri youths were compelled to start an armed resistance which is continuing for the fourth successive year. From this letter of the association an inference can clearly be drawn by this Tribunal that JKLF is so desperate to achieve independence for the State of Jammu & Kashmir that they are not prepared to recognise any line, whether it is cease-fire line or line of actual control and that the armed struggle which is being carried by misguiding and misleading the Kashmiri youth is a deliberate attempt to achieve freedom for the State by inciting the Kashmiri youth to revolt against Union of India by adopting the path of terrorism and militancy which can neither be permitted nor tolerated by any welfare State.

47. In furtherance of the aforesaid aims and objectives JKLF has built up and is maintaining close links with Pakistan's Inter-Services Intelligence (ISI) which has been openly organising training of Kashmiri youth in Pakistan/POK. In support of this ground reliance was placed by the Central Government on the report of the Special Branch, Jammu & Kashmir Government in which there is specific mention to the Kashmiri militants undergoing training in Pakistan. Reliance was also placed on the interrogation reports obtained from the Intelligence Agencies of the State Government, wherein during the course of interrogation of the armed militants following their arrest statements were recorded wherein the said militants had confessed to have received training in camps in Pakistan. In one of the interrogation reports placed on the record by the State Government a specific reference was made to arms training imparted to the Kashmiri militants in Pak camps in a single batch for three weeks in sophisticated weapons like AK-56 rifles, LMG, UMG, Sniper rifles, RPG, rockets, grenade throwing and pistol and explosives etc. There is also reference to the imparting of training in Guerilla war-fair like hit and run, ambushing attack in darkness, an sudden attack on security forces given to the Kashmiri militants in a match factory near Muza-farabad in Pakistan.

48. A reading of the said interrogation reports of some of the militants reveals that the said militants had developed close links with Amanullah Khan, Chairman of JKLF who is staying in Pakistan and Pak based ISI. One of the said militants Javed Ahmed Mir alias Nalqa (President of JKLF now under detention) visited Pakistan/POK from June, 1993 to January, 1994 to obtain financial assistance as well as arms and ammunition from Pak authorities. There is also mentioned in the said interrogation reports to the help obtained from Pak ISI of about 60 Afghan mercenaries now operating in Kupwara District to Jammu and Kashmir State. It will not be out of place to mention to a recent interview of Sardar Abdul Qayyum Khan, Prime Minister of Pakistan (POK) to the Editor, India Today dated 15-5-1994 published in May Edition wherein Mr. Qayyum Khan is reported having said that his Government not only allows militants to be trained in Pakistan but also does not prevent them from crossing the line of actual control (LAC).

49. From the evidence tendered on the record, it is clearly established that the JKLF has direct link and complicity with Pakistan based ISI for the purpose of receiving not only military training for the Kashmiri militants but also getting financial aid and assistance besides arms and ammunition against India and in this manner Pakistan has not only been aiding and abetting terrorism in Kashmir Valley but has also been actively involved in a proxy war against India.

50. Regarding misuse of religious places by JKLF for instigating the people of the State to wage war against Government of India reliance was placed by the Central and State Government on the evidence which will be discussed hereinafter.

51. In October, 1993 following the siege of Hazratbal shrine by militants in Srinagar considerable tension had developed in the city pursuant to which the State Government imposed curfew around Hazratbal shrine. About 50 militants belonging to JKLF and about 200 civilians including ladies and children were entrapped inside the shrine. The leaders of JKLF by statements issued through press and in the congregation in the mosques issued statements and made public speeches exhorting people to reach Lal Chowk, Srinagar on 17-10-1993 for a protest march. In this regard a reference was made to news item published in Srinagar Time, dated 23-1-1993 and local Urdu papers wherein some leaders of JKLF, namely, Shabbir Ahmed Bhatt, Maulvi Abbas Ansari and others from different militant outfits addressed the congregation regarding Hazratbal episode. Reliance was also placed on press cutting from Kashmir Times, dated 17-1-1993 with a caption "Sopore Carnage condemned JKLF reiterates demand for independent Kashmir". In this context reference was made to a document with a caption "Jammu and Kashmir impasse at Hazratbal shrine...an assessment", wherein it is mentioned that as per the latest estimates about 40 armed militants including 2 important JKLF leaders and about 150 civilians were entrapped within the Dargah complex having about 20 to 30 women, children some of whom were sick, with no food available for the civilians, but the militants were reported to have food resources to last about 3 1/4 days. From the evidence tendered on the record regarding misuse of religious places by JKLF militants in the valley a logical inference which can be drawn is that the sole aim and object of the association was the desecration of religious places by entrapping innocent civilians, i.e., women, children, aged and infirm people with a view to coerce the administration and State authorities to concede their illegal demands, the sole amongst them being the independence and liberation of Kashmir from India. The intelligence reports on which reliance has been placed by the Central Government also fortifies this view since the JKLF militants have been time and again exhorting people to be prepared to lay-down their lives for the cause of 'movement' for liberation of Kashmir. Reference was also made to the Intelligence Bureau Report with the caption, 'Jammu and Kashmir Hazratbal 'imbroglio'': wherein there is a reference to JKLF which was in the forefront of negotiations regarding the shrine. For the purpose of assessing the participation of JKLF in Hazratbal episode reference may be made to one I.B. report, which makes a specific mention to entrapped militants which included two Pakistani Nationals, 16 from JKLF and 12 from operation Balakote, and 4 from Al Jihad. Thus JKLF had the larger stake not only in terms of number of entrapped militants but also its arms cache and the importance of Hazratbal as a prestigious platform. From the evidence tendered on the record by the Central Government with regard to Hazratbal episode, there is a specific mention in one of the intelligence bureau reports to the successful termination of 31 days' long siege of Hazratbal shrine on 15-1-1993 which brought about widespread public relief by ending longest 'hartal' in the valley, which not only boosted the morale of security forces, State Administration and intelligence agencies but

also defeated the nefarious designs of Pak based ISI. The total period of siege of Hazratbal shrine was for about one month and the crisis ended without any loss of bloodshed following the surrender of JKLF militants on 15-11-1993.

52. Another allegation in the Notification is regarding open pronouncements made by JKLF which are prejudicial to the interest of the Nation and having serious repercussions for the integrity and security of India. In this context reference is made in the Notification to some important instances such as :

- (a) congregation organised by the association at Idgah, Budgan on 16-1-1993 in which Javed Ahmed Mir, the self-styled Acting President of the Front, reiterated the stand of the Front for establishing an independent Kashmir and;
- (b) the association has been preaching secession from the Union of India and in this connection gave its calls through press to the people of the State to observe Independence Day (15th August, 1992) as black day. The Independence Day as well as Republic Day figure as black days in the official calendar issued by JKLF.

53. In support of these allegations, reliance was placed upon a Special Report dated 7-8-1992 of the Special Branch, Government of Jammu and Kashmir, Srinagar, wherein in para 3, there is a reference to 15th August and 26th January, i.e. Independence Day and Republic Day and 27th October being observed as black days by the Kashmiris. Demonstration was organised by the JKLF outside the Embassy of India in Pakistan, Britain, Egypt, Iran and other Islamic countries de-announcing alleged repression of security forces against innocent Kashmiris.

54. Regarding the allegation in the Notification pertaining to JKLF militants having unleashed a reign of terror in the State of Jammu and Kashmir by indulging in violent activities resulting in the death of large number of civilians and security forces' personnel, abduction and extortion of citizens and destruction of property, it has been alleged in the Notification that the JKLF has tried to create chaos and insecurity amongst the people of the State of Jammu & Kashmir and to erode the authority of and destabilise the Government established by law.

55. In support of this ground in the Notification, Government placed reliance upon various FIRs which were registered by the police following the attack by JKLF militants on Government buildings and/or which the association claimed its responsibility. The association had also issued threatening letters to the people of the State demanding financial assistance by exhorting the residents either to meet the demands or face dire consequences.

56. On 22-6-1993 there was firing of rockets on new Secretariat complex at Srinagar resulting in substantial damage to the said building and as a result of which heavy explosion was caused beside resulting in injuries to 3 employees of the Secretariat. The

association JKLF owned responsibility for this incident. FIR No. 100/93 under Section 307 IPC, Section 3/25 of the Indian Arms Act and Section 3/4 TADA Act was registered with the Police Station, Saheedganj, Srinagar. Reference was also made to firing of rockets at the Secretariat building complex in Srinagar again on 11-5-1993 by some terrorists resulting in damage to the Secretariat building and injuries to some persons and death of one civilian. The JKLF claimed responsibility for this incident as well. FIR No. 77/93 under Sections 302, 307 IPC, 3/4 TADA (P. Act) and 3/25 of the Indian Arms Act was registered with the Police Station, Saheedganj, Srinagar. This news was published in Daily Excelsior, Srinagar dated 12-5-1993 with a caption, "Employee killed in rocket attack on Secretariat-JKLF owned responsibility".

57. Attention of the Tribunal was also invited to daily summary of information, dated 13-12-1993 placed on the record which is supplement to Special Branch, Kashmir, wherein there is a specific mention to the situation prevalent in Srinagar in response to the call of JKLF to observe Bandh 'Hartal' as a mark of protest against Anti-Pak Talks. A complete Hartal was observed in Srinagar and other parts of the valley resulting in closure of business, educational and Government establishments. Reference may also be made to the I.B. report, dated 11-2-1992, wherein there is a specific mention to the Hartal observed throughout the valley in response to the Bandh call given by JKLF on the death anniversary of Maqbool Bhatt.

58. On 19-9-1992, two unidentified dead-bodies were recovered at Srinagar. Both dead-bodies were of non-Muslims. FIR No. 200/92 under Section 302 IPC, Section 3/4 TADA (P) Act at Police Station Satakadal was registered. In a chit recovered from the pockets of the deceased which was blood-stained, JKLF had claimed responsibility for the said killing by mentioning 'Blood for Blood'.

59. On 10-8-1992 one Shri J. L. Mehto Hav. No. 7237176 was abducted by militants from Sopore at gun point and sent to unknown place. The JKLF claimed responsibility for the said abduction. In one of the I.B. Special Reports dated 11-8-1992, open collusion of JKLF is clearly established with militants of Al-Jihad. In the context of threatening letters reference may be made to an incident, dated 17-12-93 when police station Rajouri received reliable information regarding the receipt of threatening letters by the residents of the city which resulted in widespread disturbance and breach of peace. FIR No. 448/93 under Section 3/4 TADA (P) Act was registered at Police Station, Rajouri and investigation taken up.

60. With regard to attack on security forces reliance was placed by the Central Government on "Actions by JKLF" which is complete narration of various incidents of attack during the period April, 1992 to March, 1993 forming part of the resume of JKLF placed on the record of the Tribunal by the Central Government in support of its Notification. In this context reliance was placed by the Central Government to various incidents some of which are noteworthy to be mentioned. In one of such inci-

dents on Bashir Ahmed Lone, Pak Trained Militant of JKLF had actively participated in three actions against the security forces in Kalaroos area as per police report dated 12-7-1993. Reference may also be made to the Interrogation Report of a militant, Faiz Ahmed who was arrested in a case FIR No. 314/93 under Section 3/4 TADA (P) Act. The said militant has confessed to having received arms training in Pakistan and having participated in attack on our security forces. The said militant admitted himself to be a member of JKLF. It is revealed from the interrogation reports of JKLF militants Latif Hussain and Rashid Ahmed that they after having received arms training in Pakistan Occupied Kashmir (POK) and indulged in subversive activities in Jammu & Kashmir by launching attacks on security forces and were booked in different cases vide FIR No. 2193 under Section 3/4 TADA (P) Act etc., police station Rajouri and FIR No. 314/93 under Section 3/4 TADA (P) Act respectively. Reliance has also been placed by the Central Government regarding interrogation report of accused Mustaq Ahmed Kotru who was booked in a case under Section 3/4 TADA (P) Act following his arrest on 20-8-1993. During the course of interrogation the said militant admitted to have received arms training in Pakistan in handling of AK 56 rifles and in July, 1992 he made an attack on a patrolling party of the security forces near a hotel in Srinagar. Reliance was also placed by the Central Government in respect of another incident of attack on security forces following which the militants belonging to JKLF were booked vide FIR No. 89192 under Section 392 and 365 RPC, 3/4 TADA (P) Act resulting in killing of army personnel. JKLF claimed responsibility for abduction and killing of members of the security forces. Evidence was also placed on record regarding two Bank robberies committed by Farooq Ahmed Siddiqui and Nazir Ahmed Soofi, both members of JKLF. The said militants in their interrogation reports confessed to having committed the Bank robberies in Srinagar. The said militants had also confessed to having received training in handling of fire-arms and also having collected funds for militants and having received subversive materials for the militants.

61. Regarding the allegation in the Notification against the JKLF having attempted to sabotage the revival of political activity by giving open threats to members of general public, political parties and their leaders, reliance was placed by the Central Government on a report dated 7-2-1992 wherein a reference is made to Javed Ahmed Mir, Acting Chief, JKLF who is reported to have addressed the congregation of 40,000, assembled at Hazratbal mosque giving an open warning that if proposed march of 11th February, 1993 is prevented, India will have to face dire consequences and anybody disturbing the march would find his place amongst the enemies of Kashmir. JKLF in support of its movement had announced operation Maqbool Bhatt from February 5 to February 14, 1994. Reference in this context may be made to news item published in 'Greater Kashmir', dated 3-2-1994 which was relied upon by the Central Government by supporting evidence.

62. From the evidence referred to above, the logical conclusion which can be drawn by this Tribunal is that under the entire spectrum of activity, most heinous crimes contemplated under the Penal Code, i.e., waging or contemplating to wage war against Union of India were committed by JKLF militants and no authority or Government established by law can be a silent spectator to the same. In the garb of providing independence to Kashmiris, JKLF has been indulging in unlawful activities ever since its inception in 1988 and in furtherance of its unlawful activities have been making every effort to de-stabilise the security of the Nation and its sovereignty. The evidence tendered on the record both by the Central as well as by the State Government amply proves that gross violation of human rights was committed by JKLF which is neither warranted nor would be tolerated by any welfare State. It is clearly established from the record that JKLF is an organisation with sedition as its end and brutal violence as its means. Both its objects, its aims and activities are beyond the pale of law and this Tribunal consequently is of the view that there is sufficient evidence on record to uphold the legal validity of the Notification dated 18-2-1994 issued by the Central Government declaring JKLF as an unlawful association under Section 3 of the Act.

63. Keeping in view the methodology adopted by the association 'JKLF' by indulging in activities which are unlawful within the ambit of definition of 'Unlawful Activities' under Section 2(f) of the Act, the logical conclusion which can be drawn by this Tribunal is that the declaration made by the Central Government in terms of the Notification dated 18-2-1994 declaring the said association unlawful within the ambit of Section 2(g) of the Act is confirmed by this Tribunal and the association 'JKLF' deserves to be banned for the period contemplated under the Act.

64. From the evidence on record, referred to above, this Tribunal is fully satisfied that there is sufficient cause for declaring JKLF to be an unlawful association. Consequently the declaration made by the Government of India, Ministry of Home Affairs vide Notification No. 13014/19/93-K (DO-I), dated 18-2-1994 under Section 3(i) of the Act is hereby confirmed.

65. Signed and delivered on this 16th day of August, 1994, at Conference Hall, Rajasthan House, New Delhi.

Sd/-

(JUSTICE ARUN MADAN)

Unlawful Activities
(Prevention) Tribunal.

[F. No. 13014/4/94-K (DO. I)]
MADHUKAR GUPTA, Jt. Secy.

